

MINUTES OF THE  
JOINT HEALTH AND HUMAN SERVICES APPROPRIATIONS SUBCOMMITTEE  
Thursday, January 31, 2008  
Room W125, West Office Building, State Capitol Complex

Members Present: Sen. Allen Christensen, Committee Co-Chair  
Rep. Merlynn Newbold, Committee Co-Chair  
Sen. Chris Butters  
Sen. Peter Knudson  
Sen. Ross Romero  
Rep. David Litvack  
Rep. Roz McGee  
Rep. Paul Neuenschwander  
Rep. Paul Ray  
Rep. Richard Greenwood

Members Absent: Rep. Steve Urquhart

Staff Present: Russell Frandsen, Fiscal Analyst  
Debbie Headden, Fiscal Analyst  
Joan Tiffany, Secretary

Public Speakers Present: David Sundwall, M.D. Executive Director of Operations, Utah Department of Health (UDOH)  
Michael Hales, DHCF Division Director, Utah Department of Health  
Douglas Goldsmith, Executive Director, The Childrens' Center  
Joyce Dolcourt, Director of Public Policy, The ARC of Utah  
Kris Fawson, Legislative Coalition for People with Disabilities  
Michelle McOmber, Assistant VP, Utah Medical Association  
Lisa Thornton, President, Utah Prader-Willi Association  
Lincoln Nehring, Medical Policy Director, Utah Health Policy Project  
Judi Hillman, Executive Director, Utah Health Policy Project

A list of visitors and a copy of handouts are filed with the committee minutes.

The meeting was called to order by Co-Chair Sen. Christensen at 2:10 pm.

There were no minutes for approval.

Sen. Christensen announced the public meeting for Monday, February 4, 2008 at 2:00 pm. There was a sign-up sheet for the public on a first come, first served basis. He excused Rep. Newbold for the first portion of the meeting.

Analyst Russell Frandsen discussed the handout of the DOH FY2009 General Fund Building Blocks as per Reps. Neuenschwander and McGee's request.

Dr. David Sundwall discussed H.B.15 "Control and Prevention of Sexually Transmitted Diseases" and the UDOH's desire to include treatment as well as education with the bill. Funding requests for the bill was also discussed. Discussion pertaining to the handouts were addressed.

1. **Medical Assistance Line Item Detail**

Analyst Russell Frandsen discussed Issue Brief 09-16 Medical Assistance Line Item Detail.

The Medical Assistance Line Item contains Utah expenditures for Medicaid-eligible clients. Medicaid is a joint federal/state entitlement service that provides health care to selected low-income populations. Preliminary research indicates that no other states have such few Line Items and programs for their Medicaid Base Program budget expenditures. The Analyst recommends that the 4 program lines, Medicaid Base Program, Pharmacy Program, Title XIX Human Services, and DOH Health Clinics become 3 Line Items. All current programs would be broken up into 2 new Line Items Core Services and Optional Services, except for **DOH Health Clinics** which will become its own line item. Core Services would have 6 programs and reflect the core services that Utah is required to pay for when it chooses to participate in the Medicaid program. Additionally, Utah has elected to cover additional groups beyond the minimum requirements. These groups represent about one third of all **Core Services** expenditures. The 6 programs with the highest expenditures were selected. Those 6 programs are included below with a brief explanation:

1. **Inpatient Hospital**- services provided at a hospital, while a resident there.
2. **Nursing Home**- institutionalized long-term care.
3. **Capitated Mental Health Services**- mental health services addressing issues from depressions to schizophrenia.
4. **Physician Services**- doctor office visits.
5. **Outpatient Hospital**- services provided to clients who go to the hospital, but do not stay overnight.
6. **Other Core Services**- other services such as home health services, lab and radiology, medical supplies, and medical transportation.

**Optional Services** would have 7 programs and reflect the services that Utah has opted to pay for. There are a few populations, such as children and pregnant women, where these optional services are required. These required "Optional" services make up about 16% of all optional service expenditures. The 7 programs with the highest expenditures were selected, with the exception of vision care. The 7 programs are included below with a brief explanation:

1. **Pharmacy**- prescription drugs
2. **Home and Community Based Waivers**- programs to keep clients in need of long-term care services in their homes.
3. **Buy In**- the State pays the Medicare premiums and deductibles to pay for clients to use the 100% federally-funded Medicare program, rather than Utah's Medicaid program.
4. **Dental Services**- preventative and routine dental services.
5. **Institutional Care Facilities for the Mentally Retarded**- institutionalization services for individuals with cognitive disabilities.
6. **Vision Care**- eye glasses and exams.
7. **Other Optional Services**- services such as chiropractic, kidney dialysis, occupational and physical therapy and early intervention programs for children with developmental disabilities.

The Analyst recommends the Legislature change the Medical Assistance Line Item into 3 new Line Items with accompanying programs as discussed above.

Michael Hales referred to a handout packet for "Division of Health Care Financing Final 2007 DHCF Medical Service" and he explains the expenditures of the department. He disagreed with the Analyst's recommendation to divide the current Line Item into three Line Items. He explained that vision care is not an optional service for groups as pregnant women and children, therefore the difficulty in defining expenditures. He discussed certain contracts with managed care organizations that handle both mandatory and optional services and the difficulty the breakdown would present in payment issues. He explained how complicated the system would become with the 3 Line Item breakdown. He stated his concern with IT issues plus federal government requirements on the HMO projects and the delays this recommendation would create in the billing system.

He stated that the request would not be up and running by July 1.

Dr. Sundwall stated this support for Mr. Hales' statement and expressed his concerns about a detailed report requested from one of the Committee members on a program and the amount of time it entailed. The amount of FTE's used in obtaining this information was his concern and requested that this not be an on going practice.

Sen. Christensen inquired about the transfer of funds within Line Items and Mr. Hales addressed this question. He explained that they do not start new programs that are optional that the Legislature does not authorize to do. Rep. McGee asked about intent language and the recommendation and Mr. Frandsen discussed this. She stated her support for the existing structure.

2. **Follow Up on S.B 42 (Preferred Drug List) From the 2007 General Session (Information only)**

Analyst Frandsen discussed Issue Brief 09-05 Follow Up on S.B.42.

Senate Bill 42 "Preferred Prescription Drug List" from the 2007 General Session permitted the Department of Health to develop a program to place some drugs on a preferred drug list. A preferred drug list is used as a default, preferred prescription or medical supply for certain diseases. Clients use these preferred drugs unless they are found to be ineffective for the client. The bill also included a provision for the Department to report on the Preferred Drug List program during the FY 2008 General Session.

The original fiscal note savings estimate was (\$2,743,800) General Fund (\$9,831,900 Total Funds). The FY2008 Medical Assistance Line Item was reduced by this amount in anticipation of these savings. Estimated savings for FY 2008 indicate that savings will be \$2,411,600 General Fund less than anticipated. The Department requested additional funding to make up the difference. The Department intends to implement about six more drug classes within the next six to nine months. These additional drug classes are projected to provide additional savings to the State.

Rep. Neuenschwander asked how many physicians are bypassing this request by writing "Medically necessary, dispense as written". Mr. Hales discussed the overrides and some of the medications that require this. He referred to page three "Preferred Drug List-Actual/Projected Savings" of the handout and discussed future projection savings.

Sen. Christensen commented on the loop hole of prior authorization. Rep. Neuenschwander asked about auditing the physicians who override the program and Mr. Hales discussed providers in the program the animosity this action may cause in the network. Rep. McGee asked if marketing played a role in the prescribing of name drugs and Mr. Hales discussed the possible impact that this had on the overrides. Sen. Christensen commented that a audit would be interesting to understand the medical reasons of the physicians' action. Rep. Litvack asked if a study was done on the health of Medicaid patients who needed pre-authorization for the name brand prescriptions. Mr. Hales responded to this question. Sen. Christensen asked about handwritten "medically necessary" prescription and asked about pharmacists having the option of substituting a more expensive drug. Mr. Hales responded to these questions.

Dr. Sundwall stated his support for the Electronic Medical Records and compliance would be easier.

3. **Medicaid Interim Committee:**

Analyst Frandsen said that he would give a summary of legislation presented in the Medicaid Interim Committee.

**Medicaid 340B Drug Pricing Programs, H.B. 74**-This bill requires the department to explore feasibility of expanding the use of 340B drug pricing programs in the state Medicaid program; requires the department to report to the Legislature's Health and Human Services Interim Committee and Health and Human Services Appropriations Subcommittee regarding implementation of the expansion of the 340B drug pricing program; and sunsets the section on July 1, 2013. (page 84)

**Medical Benefits Recovery Amendments, S.B. 50-** This bill defines terms; recodifies the Medical Benefits Recovery Act; modifies provisions related to recovery of medical assistance from a recipient's estate or a trust, so that recovery can be made as soon as an expectation to recovery, relating to a surviving spouse or child, is no longer in effect; provides for the imposition of a lien, authorized by the federal Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), against the real property of a person who is an inpatient in a care facility, during the life of that person; establishes procedures, requirements, and exemptions, relating to imposing a TEFRA lien; establishes a rebuttable presumption that a person who is an inpatient in a care facility cannot reasonably be expected to be discharged from the care facility and return to the person's home; if the person has been an inpatient in a care facility for a period of at least 180 consecutive days; provides for review and appeal for a decision to impose a TEFRA lien; provides for the dissolution and removal of a TEFRA lien; provides that an agency that the department contracts with to recover funds paid for medical assistance under the Medical Benefits Recovery Act shall be the sole agency that imposes or removes a TEFRA lien; and makes technical changes. (page 86)

**Notice of Changes to the State Medicaid Plan, H.B. 82-** This bill clarifies the content of the Department of Health's notice to the Legislature when the department makes a change to the state Medicaid plan; and makes technical and clarifying changes. (page 85)

Sen. Christensen stated an update on these bills.

4. **Medicaid Inflation-Core Group Provider Increases**

Mr. Frandsen explained Issue Brief 09-14-Medicaid Inflation.

Federal regulations require that Medicaid services that are offered be accessible by recipients. In order to ensure that services are available and accessible, the reimbursement rates paid to core Medicaid providers must be sufficiently high to make them partners in the program and to enable them to cover their increased costs. Over the past few years because of the budget constraints, reimbursement rates, for most categories of providers have not been increased, while a few others have increased through additional state appropriations. Medicaid inflation affects Medicaid provider rates. The Executive Appropriations Committee included 50% of the Department's request in the base budget at a cost of \$8,609,200 ongoing General Fund (\$26,298,400 Total Funds), which would provide an average provider rate increase of 2.5%. In order to fund the Department's request for a 5% provider rate increase, an additional appropriation of \$8,609,200 ongoing General Fund (\$26,298,400 Total Funds) would need to be made.

Mr. Hales referred to pages five and six in the pamphlet handout concerning the Medicaid Core Increase. The Governor's Recommended Budget amount is \$12,735,900 compared to the Legislative Base Budget of \$8,609,200 with a shortage of \$4,126,700. He explained the Buy-In program as well.

5. **Medicaid Inflation-Non-Core Group Provider Increases**

Analyst Frandsen explained Issue Brief 09-21 Non-Core Medicaid Inflation.

In order to ensure that services are available and accessible, the reimbursement rates paid to Medicaid providers must be sufficiently high to make them partners in the program and to enable them to cover their increased costs. Over the past few years because of the budget constraints, reimbursement rates, for most categories of providers have been increased, while a few others have increased through additional state appropriations. Medicaid inflation affects Medicaid provider rates. The Executive Appropriations Committee included 50% of the Department's request in the base budget at a cost of \$8,609,200 ongoing General Fund (\$26,298,400 Total Funds) which would provide an average provider rate increase of 2.5% for core Medicaid services. He also discussed Non-Core providers. The Analyst recommends that the Subcommittee place \$341,600 ongoing General Fund on its priority list for a 2% provider rate increase for non-core Medicaid service providers.

Rep. McGee asked about ambulatory surgical centers and Mr. Hales discussed this and the fiscal note needed. The Analyst referred to S.B.82 and Sen. Christensen referred to another bill concerning this. Mr. Hales discussed the inflation details rates for non-core providers and supported the Governor's Budget for a 4% increase in the amount of \$667,000 and disagreed with the Analyst's recommendation.

6. **Department of Technology Services Rate Adjustment Correction**

Mr. Hales explained page 6 (yellow page) of the UDOH handout concerning a correction of the DTS rate adjustment mistake. The correct amount should have been \$150,000 more in general funds (see handout) and the requested amounts for FY 2008 is one-time Supplemental of \$150,000 and FY 2009 ongoing base restoration of \$150,000.

Rep. Neuenschwander asked about this being on his fact sheet and this was addressed by Mr. Hales.

7. **Restoration of Adult Dental for Medicaid Clients**

Mr. Hales discussed page 7 (orange page) of the UDOH handout.

In FY 2007, the coverage of adult dental benefits was restored to the Medicaid program for aged, blind and disable populations, using donations from non-governmental sources. In FY 2008 the same coverage was restored with one-time general funds. For FY 2009, the Department of Health is recommending \$2,845,100 in on-going funding to cover all adult dental services and \$9,989,900 in total funds. This would include funding for the Non-Traditional program.

Sen. Christensen and Rep. Neuenschwander asked about the funding requested and the utilization of the program and Mr. Hales addressed the questions.

8. **Physician Provider Increases**

Mr. Hales discussed page 8 (pink page) of the handout and explained the need for increase in funding.

UDOH is requesting an additional 10 percent rate increase for primary care physicians. In addition, a 15 percent rate increase is needed to cover increased inflationary cost and overhead cost of our specialty care physicians. Specialty care physicians included but are not limited to surgeons, OB/GYN physicians, and anesthesiologists. This funding will help improve our Medicaid clients' access to overall physician care. In order to meet the increased costs of physician and specialty care physicians, \$4,564,800 in general funds and \$16,028,000 in total funds is required.

Mr. Frandsen discussed the UDOH Revised Draft in the binder behind Tab 3 and explained the Medicaid reimbursement percentage rates as an information only item. Sen. Christensen asked if we still have Medicaid providers and Mr. Hales addressed this. Mr. Hales also discussed Page 10 (white page) of the handout concerning CHIP funding summary for clarification only. He discussed the chart on that page for explanation. Rep. Neuenschwander asked about the closure of the program due to lack of funding and Mr. Hales explained.

9. **Requests for Appropriations or Bills with Fiscal Impact**

a. **The Children's Center-** Dr. Douglas Goldsmith discussed the children's mental health needs. He reported on the programs of the Center and asked for a \$500,000 one-time allocation. Reps. Litvack and Newbold commented on this topic.

b. **Respite Care for the Division of People with Special Disabilities (DSPD) Waiting List-** Joyce Dolcourt discussed the DSPD respite care needs. Kris Fawson voiced her support for this allocation of funds in the amount of \$500,000 one time money.

c. **Utah Medical Association-** Michelle McOmber spoke in support for an electronic medical record systems. Her request is for \$100,000 one-time money. Dr. Sundwall reported on how the money was spend last year and spoke in favor of this appropriation. Rep. Newbold questioned the different types of systems that are available and Ms. McOmber explained the need for a universal system to interact with one another. Sen. Romero asked about volunteer charity care in the medical field.

d. **Prader-Willi Syndrome Association-** Lisa Thornton asked for appropriations for a care manager for the Prader-Willi program. She addressed the questions previously asked concerning the disease and states that it is considered a disability. She spoke on the need for a care manager. Dr. Sundwall stated that the department needs permission to spend monies from non-lapsing Medicaid funds. Rep. Neuenschwander asked about the number of Prader-Willi cases in Utah. Ms. Thornton stated that she knows of 67 cases and estimated that approximately 180 cases exist because diagnosis is delayed.

Judi Hilman asked about H.B.131 and the Committee was not familiar with it. Lincoln Nehring asked about H.B.364 and this had not been heard as well.

Sen. Christensen explained the priority sheet that the Committee needs to itemize. Analyst Headden explained this sheet.

**MOTION:**

A motion to adjourn was presented by Rep. Ray. The motion passed unanimously with Rep. Urquhart absent for the vote.

The meeting was adjourned at 4:07 pm.

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Sen. Allen Christensen, Co-Chair

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Rep. Merlynn T. Newbold, Co-Chair